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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,198	06/06/2001	Tom McGee	US 010136	9113

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EXAMINER	
SHANG, ANNAN Q	

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/876,198	Applicant(s) MCGEE ET AL.	
	Examiner Annan Q. Shang	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

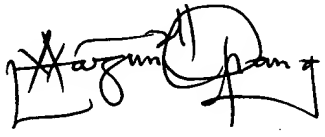
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.



Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments/amendment filed 03/22/07 have been fully considered but they are not persuasive.

With respect to claims 1-4, 8, 10-14, 18, 20 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al (6,177,931), applicant discusses the prior art of record and argues that, none of the cited section of Alexander et al., "...does not teach or suggest obtaining information about a program from the program itself..." that "...does not teach or suggest obtaining values representing start and end times from an audio portion from one or more frames...", etc., and futher argues that there is no motivation to combine (see page 2 of 7+ of Applicant's Remarks/Arguments).

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Alexander teaches a Television Receiver (TVR) 10 or 24, which obtains and stores in a RAM or EPG database, data packets of EPG or Schedule information representing characteristics data (program name, channel, date, start time, end time, duration, etc.) of at least one program. TVR-10 or EPG microprocessor monitors the data packets on in real-time or on an ongoing basis and integrates the captured data into the EPG database (col.3, lines 3-20, col.5, lines 5-15, col.19, lines 13-29 and col.33, line 44-65). Alexander further teaches that TVR-10 or EPG microprocessor monitors the packets of EPG data received for changes in the schedule information (date, start time/end time, duration, etc.) and upon receiving a packet of scheduling updates (second value representing characteristics data of at least one program), the microprocessor compares these values to determine the appropriate recording duration (or start time/end time) for recording the program and automatically updates the recording list to meet these changes (col.11, line 63-col.12, line 9, line 53-col.13, line 13). When a user selects to record a program(s) (in-progress or scheduled to be broadcast) the EPG microprocessor automatically updates any scheduling changes to record the program(s) and records the program(s) accordingly based on the changes (col.11, line 63-col.12, line 9, line 53-col.13, line 13). The 102(e) rejection is proper, meets all the claim limitation and maintained. In response to applicant's arguments as to claims 8 and 10; Alexander teaches that recording of program(s) can be done using audio content, such as changes in tone, etc, to index or record program(s) accordingly (col.12, lines 30-43). In response to applicant's arguments as to claims 22-25, the EPG microprocessor program upon receiving the data packet as to changes in the scheduling of program(s), compares the characteristics data and determines a TRUE or FALSE logic based on a comparison of the characteristic data related the program to be recorded and updates the changes if necessary. Hence the 102(e) rejection of claims 1-4, 8, 10-14, 18, 20 and 22-25 is proper, meets all the claim limitations, maintained as repeated below.

With respect to claims 5-7, 9, 15-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (6,177,931) as applied to claims 1 and 11 above, and further in view of Dimitrova et al (6,100,941), applicant argues that, "...The Office Action has failed to support an allegation that there is a suggestion or motivation to combine the references..." supports arguments with cited portions of MPEP and argues that the Dimitrova do not make up for deficiencies in Alexander.

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Examiner maintains that, the test for obviousness is not whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case Alexander teaches a TV receiver which includes an EPG microprocessor, which monitors changes in scheduling information of the EPG and adjusts the recording list to meet the changes. In the same field of endeavor, Dimitrova discloses a video recording and playback system, which determines when to record program(s) using various detection means to detect the start/end times of programs (col.1, lines 7-10 and col.4, line 53-col.5, line 45). Both reference are in the same field of endeavor, as such combining the teaching of Dimitrova with Alexander would be within the knowledge of one of ordinary skill in the art, and the appropriate motivation was given.

Furthermore it appears Applicant's arguments are directed against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Hence the 103(a) rejection is proper, meets all the claim limitations and maintained. The finality of the last office action is hereby maintained.